IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5477 of 2007(R)

CRIME NO.206/07 OF NEYYATTINKARA POLICE STATION

.....

PETITIONER :

R.SUBHASH, AGED 30 YEARS
S/O.M.K.RAMACHANDRAN,
RESIDING AT UDAYAM, PANTHEERANKAVU.P.O.
KOZHIKODE,

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

RESPONDENTS:

---

1. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTGOR
HIGH COURT OF KERALA, ERNAKULAM

2. THE DY.SUPERINTENDENT OF POLICE
NEYYATTINKARA

3. THE SUB INSPECTOR OF POLICE
NEYYATTINKARA POLICE STATION

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5477 of 2007

Dated this the 17th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Altogether there are 2 accused persons. The petitioner is employed as Territory Manager in a company. He works under a superior, ie. the defacto complainant. The 2nd accused is the superior officer of the defacto complainant. The crux of the allegations is that a resignation letter of the defacto complainant was forged by the petitioner and sent to the 2nd accused. The 2nd accused allegedly accepted the same and relieved the defacto complainant of his responsibility. The petitioner was allegedly promoted to the post which the defacto complainant was occupying. The defacto complainant has now come out with the allegation that he had not sent any resignation letter and that it was the petitioner, with an intention of securing undeserved promotion, who forged the resignation letter and sent the same to the 2nd accused. The 2nd accused also had fraudulently and with culpable intent accepted the resignation and promoted the petitioner. This in short is the allegation raised.

2. The learned counsel for the petitioner submits that the allegations are fanciful and not supported by any materials. The crux

of the allegation is that the resignation letter was transmitted by E.mail. There is absolutely no material to conclude that the petitioner had any contumacious responsibility, submits the learned counsel for the petitioner. In these circumstances, it is prayed that anticipatory bail may be granted to the petitioner.

3. The learned Public Prosecutor submits that the investigation is not complete. It is true that the 2nd accused has already been granted anticipatory bail by the learned Sessions Judge. But the petitioner does not deserve to be enlarged on bail at this stage. The Laptop of the 2nd accused has been seized and the same has been sent to the expert for opinion. The opinion will have to be obtained. It will have to be ascertained whether the said resignation letter was transmitted to the 2nd accused by the petitioner or not. The expert's report is awaited. In these circumstances the petitioner may not be granted anticipatory bail, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. At the moment and with the available inputs, I do not find any reason to assume that the petitioner had any contumacious responsibility. Except that the petitioner was promoted to the post of defacto complainant after his resignation, no circumstance has been pressed into service to show

that the petitioner had any contumacious responsibility for the forged resignation letter which the 1st accused had accepted. In these circumstances, I am satisfied that anticipatory bail can be granted to the petitioner, subject, of course, to appropriate conditions which shall ensure the interests of a fair, efficient and expeditious investigation.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 24.09.2007. He shall be enlarged on regular bail on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 25.09.2007, 26.09.2007 & 27.09.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall

thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 24.09.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) without any sureties undertaking to appear before the learned Magistrate on 24.09.07.

(R.BASANT, JUDGE)

rtr/-